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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,507	12/06/2001	Thomas J. Kennedy III	P-6023	8065

24492 7590 01/29/2004

THE TOP-FLITE GOLF COMPANY, A WHOLLY OWNED  
SUBSIDIARY OF CALLAWAY GOLF COMPANY  
P.O. BOX 901  
425 MEADOW STREET  
CHICOPEE, MA 01021-0901

EXAMINER

GORDON, RAEANN

ART UNIT PAPER NUMBER

3711

DATE MAILED: 01/29/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/006,507

Applicant(s)

KENNEDY, THOMAS J.

Examiner

Raeann Gorden

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-14 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-9, 15, 16, 18 and 20 is/are rejected.
- 7) ☒ Claim(s) 5, 17 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 6-8, 15, 16, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Wong et al (6,585,555). Regarding claim 1, Wong discloses a ball comprising a core and a cover (col. 2, lines 36-40). The cover includes a thermochromic material that changes according to the temperature (abstract). Regarding claim 2, the thermochromic section is on the surface of the golf ball (abstract). Regarding claim 3, the temperature indication is visible (col. 2, lines 57-63). Regarding claim 4, the visible indication is in at least two parts, several colors are permanently displayed while one or more colors change when the temperature changes (col. 2, lines 57-63). Regarding claims 6-8, Wong discloses the thermochromic materials suitable for the invention are found in US 4,028,118, Nakasuji et al which is incorporated into the '555, Wong patent (col. 3, lines 40-45). Nakasuji discloses the thermochromic material may include liquid crystals or leuco dye. Regarding claims 15, 16, and 18, Wong discloses a ball comprising a core and a cover (col. 2, lines 36-40).

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The cover includes a thermochromic material that changes according to the temperature (abstract). Wong discloses the thermochromic materials suitable for the invention are found in US 4,028,118, Nakasuji et al which is incorporated into the '555, Wong patent (col. 3, lines 40-45). Nakasuji discloses the thermochromic material may include cholesteric liquid crystals (col. 2).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wong et al. The additional cover layer is an obvious duplication of the first cover layer. One of ordinary skill in the art would have included a second cover layer to increase the durability of the ball.

***Allowable Subject Matter***

Claims 5, 17 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 10-14 are allowed.

### ***Response to Arguments***

Applicant's arguments filed 11-11-03 have been fully considered but they are not persuasive. With respect to the 35 USC 102(e) rejection applicant argues the Wong reference discloses a water toy ball and not a golf ball. Applicant further states that since a golf ball is not disclosed in the Wong the claims are not anticipated. The Examiner disagrees. One of ordinary skill in the art would define the term "golf ball" as a round object capable of being used in a game of golf or capable of being struck with a club, i.e., practice ball. The ball disclosed by Wong is definitely capable of being struck with a golf club during practice.

Applicant further argues the additional cover layer is not an obvious duplication in claims 9 and 20. Applicant also states a prima facie case of obviousness has not been established. However, applicant does not provide reasons or comments supporting this position. Therefore the 103 rejection is maintained.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

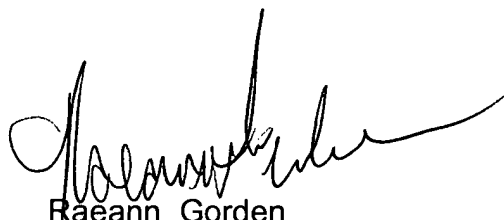
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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raeann Gorden whose telephone number is 703-308-8354. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 703-308-1513. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

A handwritten signature in black ink, appearing to read 'Raeann Gorden', with a long horizontal flourish extending to the right.

Raeann Gorden  
Examiner  
Art Unit 3711

rg  
January 14, 2003